COURT NO.3

Criminal Miscellaneous Application no 318 of 2002

Rajendra Prasad Gupta ---------- Petitioner

Versus

Special Magistrate (CBI), Dehradun---------- Respondents-

Hon'ble Irshad Hussain, J.

Heard Sri Sandeep Tandon, counsel for the applicant and Sri U.K. Uniyal, Special Counsel for C.B.I.

Criminal miscellaneous application under section 482 Cr.P.C. was moved with a prayer to direct the Special Judicial Magistrate, (CBI) Dehradun, Uttaranchal, not to proceed with CBI case No. 159 of 2000(Misc. 3 of 2000) CBI Versus Rajendra Gupta and other under sections 120B,469,467 and 472 IPC as the said court has ceased to have jurisdiction in the subject matter of the case after issuance of notification conferring jurisdiction of 18 district of western Uttar Pradesh including district Mathura to Special Court of Judicial Magistrate, First Class Ghaziabad. A notification was issued by the U.P. Government on 28.12.2001 in regard to the 18 district and in pursuance thereof, the Allahabad High Court was pleased to issue notification dated 16.1.2002 in regard to the appointment of Special Court of Judicial Magistrate, First Class Ghaziabad for the offence committed in the geographical areas mentioned in the said notification.

Copy of the chargesheet filed by the CBI against the applicant indicates that the offence was committed within the jurisdiction of district Mathura (U.P.), which by virtue of the government order dated 28.12.2001 falls within the jurisdiction of Special Court of Judicial Magistrate, First Class, Ghaziabad. By notification of the Allahabad High Court dated 16.1.2002 new court of Special Judicial Magistrate, First Class, Ghaziabad was created pursuant to the aforementioned government notification and above case now falls within the jurisdiction of Special Court of Judicial Magistrate, First Class Ghaziabad and Special Judicial Magistrate, Dehradun now has no jurisdiction to proceed with the trial.

There were similar matters before Special Judge (CBI-anti-corruption) Dehradun and the transfer petitions were filed before the Supreme Court. The same were disposed of by order dated 8.05.2002. In view of the changed circumstances the case initiated by CBI against various persons were directed to be transferred to the court of Special Judge (CBI-anti-corruption) having jurisdiction in the matter and similar steps also need to be taken in the instant case.

This apart, the provisions of section 91 of U.P. Reorganization Act, 2000, envisages that the proceedings pending before the appointed day in a court, tribunal, authority or officer in any area which on that day falls within the State shall stand transferred to the corresponding court, tribunal, authority or officer of that State. The provisions of said section 91 are similar to the provisions of section 89 of the Bihar Reorganization Act, 2000. The later provision came into consideration before the Apex Court in the case of **C.B.I. A.H.D. Patna Vs. Braj Bhushan Prasad & Ors, VII (2001) SLT 87** and on account of the fact that the occurrence took place in the part of State which now falls in Jharkhand State, the cases specified were directed to be transferred to the competent courts in Jharkhand State. The learned counsel for the petitioner contended that the law declared by the Supreme Court is the law of the land and binding on all throughout the country in view of Article 141 of the Constitution and on this analogy the instant case has to be transferred to a court of competent jurisdiction, which is this case is the Special Judicial Magistrate, 1st Class, Ghaziabad (U.P.). Having regard to the facts of the case the submission has force and has to be accepted.

Sri U.K. Uniyal, learned counsel for C.B.I. has no objection if the case is transferred to Ghaziabad Court.

The application is allowed. Criminal case no. 159 of 2000 (Misc.3 of 2000) CBI Versus Rajendra Gupta and others under sections 120B, 469, 467 and 472 IPC pending before the Special Judicial Magistrate, Dehradun, Uttarakhand, is transferred to Special Court of Judicial Magistrate, First Class Ghaziabad (UP) for disposal according to law.

(Irshad Hussain, J.)

23.10.2002
MPS